

MICHAEL J.

PAUL, HASTINGS, JANOFSKY & WALKER LLP
Robert L. Sherman (RS 5520)
75 East 55th Street
New York, NY 10022
(212) 318-6000

Attorneys for Plaintiff Direct Marketing Educational Foundation, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Direct Marketing Educational Foundation, Inc.

Plaintiff,

- against -

John Wiley & Sons, Inc.,

Defendant.

SDNY
DOCUMENT
ELECTRONICALLY FILED
3/25/08
RECEIVED: 3/25/08

Case No. 08 Civ. 1464 (LMB)

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

The Direct Marketing Educational Foundation ("DMEF"), having moved the Court for a preliminary injunction to prohibit John Wiley & Sons ("Wiley") from publishing a journal under DMEF's trademark *Journal of Interactive Marketing* ("DMEF's Mark") without DMEF's written approval of the content; and the Court having considered DMEF's complaint, memoranda of law, and declarations in support of its motion as well as Wiley's memorandum of law and declarations in opposition thereto; and the Court having considered whether DMEF would be irreparably harmed if Wiley were to exercise its license to use DMEF's Mark while

LEGAL_US_E # 78591975.2

depriving DMEF of DMEF's right to control the quality of the products offered in connection with that mark and whether DMEF had established a likelihood that it would succeed on the merits of its claim or that the merits present serious questions for litigation, with the balance of hardships tipping decidedly in DMEF's favor; and the Court having held a hearing on February 26, 2008 at which time argument was presented; after considering all the pleadings and proceedings heretofore had herein, the Court has determined that a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure is appropriate in this case.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for a preliminary injunction is granted.
2. Wiley and its officers, agents, servants, employees, attorneys, and those acting in concert with them or any of them, with knowledge of this Order
 - a. shall not publish any "Best Of" issue bearing, using, or in connection with the name *Journal of Interactive Marketing*, or any name that is likely to cause confusion therewith, without DMEF's prior written approval of the content, *which shall not be unreasonably withheld.*
 - b. shall not publish any content or journal bearing, using, or in connection with the name *Journal of Interactive Marketing*, or any name that is likely to cause confusion therewith, without DMEF's prior written approval of the content, *which shall not be unreasonably withheld.*
 - c. shall not represent by any means whatsoever, directly or indirectly, that any product or service offered by any of them is associated with, sponsored, endorsed or authorized by, or connected or affiliated with DMEF, except as expressly provided by the parties' Agreement or with DMEF's prior written approval.

3. DMEF shall maintain a security bond of \$100,000.
4. This Order shall be effective immediately upon its entry by this Court and shall remain in effect until further order of this Court.

Dated: New York, NY
March 25, 2008
2:00 P.M.

SO ORDERED


United States District Judge